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ARMSTRONG, WESTERMAN & HATTORI, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			EXAMINER	
			BRASE, SANDRA L	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 14

Application Number: 10/050,173

Filing Date: January 18, 2002

Appellant(s): TANIMOTO ET AL.

John F. Carney
For Appellant

EXAMINER'S ANSWER

MAILED

AUG 08 2003

GROUP 2800

This is in response to the appeal brief filed June 10, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1, 3, 5 and 6; and claims 2, 4 and 7 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeda et al. (US 5,327,339).

Takeda et al. (...339) disclose an image forming apparatus comprising: a photosensitive member (3) adapted to have an electrostatic latent image carried thereon; a developing unit (figure 6) including a developer carrying member (22) rotatable in a direction (b) against gravity at a point closest to the photosensitive member (col. 13, lines 26-30), and a cover for sealing a developer to be conveyed by the developer carrying member therein (figure 6), where the developer carrying member carries and conveys the developer stored in the cover to develop the electrostatic latent image on the photosensitive member (col. 13, line 60; and col. 14, line 9-20); and a clearance regulating member provided so as to be free from contact with a surface of the developer carrying member, where the clearance regulating member regulates a clearance for an upper side of the developer carrying member, and it is inherent that the clearance has a width not smaller than the developing width on the developer carrying member (figure 6), wherein the clearance between the developer carrying member and the clearance regulating member is

determined at a size not greater than a maximum height of the developer projected from the surface of the developer carrying member (figure 6). The clearance regulating member has a leading edge provided to be free from contact with the developer (figure 6). The developer carrying member is configured to have magnetic poles (23a, 23b, 23c, 23d, 23e). The clearance for the developer carrying member provided by the clearance regulating member is determined at a size not greater than a height of a magnetic brush of the developer at a magnetic pole just downstream of a clearance regulated position in terms of rotation of the developer carrying member, and at a size not greater than a gap between the developer carrying member and the photosensitive member (figure 6). A position where the clearance is regulated by the clearance regulating member is located between a magnetic developing pole (23b) and a magnetic pole (23d) located downstream of the magnetic developing pole in terms of rotation of the developer carrying member (figure 6).

(11) Response to Argument

Applicant argues that Takeda et al. (US 5,327,339) do not disclose all of the claimed limitations; specifically that the clearance between the developer carrying member and the clearance regulating member is determined to be of a size not greater than a maximum height of the developer projected from the surface of the developer carrying member and that the clearance regulating member has a leading edge provided to be free from contact with the developer, where this is incorrect since Takeda et al. do disclose these features.

In figure 6 of Takeda et al. (...339), which is an alternate configuration of the developing device shown in figure 2 of Takeda et al. (...339), the clearance regulating member, which is labeled by Appellant as X, and which, though not labeled by Takeda et al. (...339), corresponds

with the scatter prevention member (30) as described in the configuration shown in figure 2 of Takeda et al. (...339), is positioned such that a clearance is established between the developer carrying member (22) and the clearance regulating member, and such a clearance is of a size not greater than a maximum height of the developer projected from the surface of the developer carrying member. Thus by looking at figure 6 of Takeda et al. (...339), the clearance, distance, between the developing sleeve (22) and clearance regulating member is smaller than a maximum height at which the developer, shown as circles and dots in figure 6, is projected from the surface of the developer carrying member (22). Thus Takeda et al. (...339), discloses that the clearance between the surface of the developer carrying member and the clearance regulating member is of a size not greater than a maximum height of the developer projected from the surface of the developer carrying member, as recited in Appellant's claims 1 and 6.

Furthermore, Takeda et al. (...339) disclose that the clearance regulating member has a leading edge, labeled by Appellant as Y, that is free of contact with the developer. As shown in figure 6 of Takeda et al. (...339), the leading edge of the clearance regulating member is free of contact with the developer, which is shown by circles and dots, and also, the leading edge is mostly adhered to a portion of the developer frame member, thus making impossible contact with developer of that portion. Thus, Takeda et al. (...339) do disclose that the leading edge of the clearance regulating member is free from contact with the developer.

Moreover, Appellant argues that the clearance regulating member has a central portion which is in contact with the developer, where this argument is considered to be irrelevant to the claimed invention since there is no language in any of the claims prohibiting such a contact. The claims recite that the leading edge of the clearance regulating member, not the central portion, is

free of contact with the developer. Further, the claims recite that the clearance regulating member is free from contact with a surface of the developer carrying member, not developer. As previously explained, in figure 6 of Takeda et al. (...339) the clearance regulating member, labeled by Appellant as X, does not contact the surface of the developer carrying member (22), and the leading edge of the clearance regulating member, labeled by Appellant as Y, does not contact the developer, shown as circles and dots.

As a result, Takeda et al. (...339) disclose a clearance regulating member, scatter prevention device, where the clearance between the developer carrying member and the clearance regulating member is determined to be at a size not greater than a maximum height of the developer projected from the surface of the developer carrying member and the clearance regulating member, and the clearance regulating member has a leading edge provided to be free from contact with the developer. Thus meeting the limitations pertaining to Appellant's clearance regulating member (4), scatter prevention device, as contained in the claims.

For the above reasons, it is believed that the rejection should be sustained.

Respectfully submitted,

Sandra L Brase
Sandra Brase
Primary Examiner

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